REMARKS

I. Status of the Claims

Claims 1-74 are pending in the application, and claims 11-74 are withdrawn pursuant to a restriction requirement. Claims 1-6 have been examined as reading on applicants' elected species. Claims 1-6 stand rejected under 35 U.S.C. §102(e) over U.S. Patent 6,060,297.

II. Rejection Over U.S. Patent 6,060,297

Claims 1-6 are rejected under §102(e) over U.S. Patent 6,060,297 ("the '297 patent"). According to the examiner, the "open" language of the claims, *i.e.*, "comprising," the '297 patent anticipates the claimed RhoA sequences. In particular, the examiner points to column 10, lines 50-55, column 11, lines 13-16, column 12, lines 30-35, and column 15, lines 55-60. Applicants respectfully traverse.

The broadest of the present claims is claim 1, which is reproduced below:

1. An isolated peptide of about 7 to about 100 amino acids comprising a viral fusion protein binding domain of the RhoA protein.

While the basis for the rejection is not entirely clear, it may be that the examiner is arguing that the claims read on full length RhoA, which by definition, would include a viral fusion protein binding domain. However, this cannot be the case since what is being claimed is *an isolated peptide of about 7 to about 100 amino acids*. This clearly excludes full length RhoA, which is 193 amino acids long.

And while it is true, as the examiner points out, that the claim uses the "open" language "comprising," it is important to note *where* in the claim this language occurs. The "open" claim language qualifies what sequences are included in the about 100 amino acids – a viral fusion protein binding domain of RhoA, and anything else. However, the "anything else" part must not run afoul of the claim's preamble which limits the claimed subject matter to about 7 to about 100 amino acids.

Given the examiner's citations to the '297, it may be that the examiner is arguing along a different line. A careful review of these passages reveals disclosure of RhoA fragments (column 10), fusion proteins (column 11), fusion proteins (column 12) and fusion proteins (column 15). At most, these passages provide the generalized disclosure of a fragment of RhoA, and the fusion of a RhoA sequence to another peptide. It is respectfully submitted, however, that these disclosures cannot, by any stretch of the imagination, be anticipatory of the present claims.

It is black letter law that an anticipatory reference must disclose each and every element of the claimed invention. One need only go as far as claim 1 of the present application to see that the '297 fails in this regard. There is no disclosure of a peptide having a viral fusion protein binding domain of the RhoA protein. Without such a disclosure, the rejection must fall.

Put another way, the present claims are drawn to *very particular* fragments. At their broadest (claim 1), the claims constitute distinct species that would lie within the

enormous genus of "fragments" as allegedly disclosed by the '297 patent. It also is black letter law that species are novel over a genus which includes them.

Thus, applicants conclude by reiterating that the requirements for anticipation are absolute – the reference must teach each and every limitation of the claimed invention. The examiner has not been able to identify, in the cited reference, *any* disclosure of a viral fusion protein binding domain of the RhoA protein, either in name or by reference to specific sequences. As such, the rejection is improper; reconsideration and withdrawal is respectfully requested.

III.   Summary

In light of the preceding remarks, applicants respectfully submit that all claims are in condition for allowance, and an early indication to that effect is earnestly solicited. Should Examiner Scheiner have any questions regarding this response, she is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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